



UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : William L. Rohr et al.

Application No. : 10/092,955

Filed : March 6, 2002

Entitled : **CLOSED-LOOP DRUG DELIVERY SYSTEM**

Docket No. : 22719-22

Group Art Unit: 3763

Examiner: R. Maiorino

Certificate of Mailing (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service Post Office as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

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By:

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Attorney for Applicant(s)

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DECLARATION OF ALAN J. DEXTRADEUR
PURSUANT TO 37 C.F.R. §1.131

Dear Sir:

I, Alan J. Dextrateur, residing at 15 Lyons Street, Franklin, Massachusetts 02038, am a co-inventor of the above-referenced patent application, and I hereby declare as follows:

1. As a co-inventor of the subject matter claimed in this patent application, I am familiar with the patent application and its claims, as well as the development of the claimed invention. I understand that an Office Action mailed on March 3, 2004, in part, rejects claims 1, 3-8, 10, 12, 14-15, and 17-20 pursuant to 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0183800 of Schmidt et al. ("Schmidt").

2. At the time the above-referenced application was filed, I was a Team Leader in the Advanced Technologies R&D division at Codman & Shurtleff, Inc. ("Codman"), based in Raynham, Massachusetts. My responsibilities in this position included research and development relating to new technologies, including neurostimulation, drug delivery, hydrocephalus, and biological solutions.

3. I understand that the Schmidt publication, which is cited against this patent application by the Examiner in the Office Action mailed on March 3, 2004, has a United States filing date of January 25, 2002. This application is a Continuation-in-Part of U.S. Patent Application No. 09/870,097 (now U.S. Patent No. 6,650,942) filed on May 30, 2001. The parent, U.S. Patent No. 6,650,942, however, does not disclose subject matter which the Examiner relies on to reject the claims of the pending application, and thus the 102(e) critical filing date of the Schmidt publication is January 25, 2002. Regardless, I believe that the facts set forth below evidence that the invention claimed in this patent application was completed prior to May 30, 2001, which is the earliest priority date that could possibly be claimed by the Schmidt publication.

4. Before May 30, 2001, I prepared and submitted to the Codman Patent Review Board an Invention Disclosure Form, a redacted copy of which is attached hereto as Exhibit A. This Invention Disclosure Form describes the background relating to the claimed invention as well as the details of the invention. The last section on page 3 of the Invention Disclosure Form contains the signature of each of the inventors, including myself, and the signature of a witness who dated (redacted) the Invention Disclosure Form. The Invention Disclosure Form also

includes one page that describes one application of the claimed invention for treating Parkinson's Disease. This attachment is also dated (redacted) prior to May 30, 2001.

5. After the Invention Disclosure Form was submitted, the subject of this invention was addressed and evaluated by Codman's Patent Review Board, and a patentability evaluation was conducted. Once the Patent Review Board approved the preparation and filing of a patent application, the matter was assigned to an outside attorney, William C. Geary III of Nutter, McClennen & Fish, LLP, in Boston, Massachusetts. Mr. Geary worked on this application and filed it on March 6, 2002.

6. All of these acts relating to the conception and completion of this invention took place in the United States.

7. I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: May 19, 2004


Alan J. Dextradeur